

PROVIDING FOR THE DISPOSITION OF CERTAIN UNDIS-
TRIBUTED JUDGMENT FUNDS AWARDED THE CREEK
NATION

MAY 1 (legislative day, APRIL 30), 1984.—Ordered to be printed

Mr. ANDREWS, from the Select Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1224]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1224) to provide for the disposition of certain undistributed judgment funds awarded the Creek Nation having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

On page 3, beginning on line 1, strike everything through line 16 and insert, in lieu thereof, the following:

SEC. 3(a). If one or more of the Eastern Creeks entities that have filed a petition for Federal acknowledgement are acknowledged to be an Indian tribe on or before December 30, 1984, such tribe or tribes shall be deemed to be a successor entity to the original Eastern Creek group for purposes of distribution of the residual funds in Docket No. 21, and the funds held in trust for the benefit of the Eastern Creeks under section 2 of this Act (including all interest and income accrued thereon) shall be distributed to such tribe or tribes by the Secretary as needed to make any expenditures for any plan or program authorized by ordinance or resolution of such tribe or tribes.

(b) If more than one tribal entity is recognized by the Secretary, such funds shall be prorated between the tribes on the basis of their respective base membership rolls on the date of acknowledgement.

(c) If none of the Eastern Creeks which have filed a petition for acknowledgement are recognized as an Indian tribe by the Secretary prior to December 30, 1984, the funds held

in trust for the Eastern Creek under this Act (including all interest and income accrued thereon) shall be distributed by the Secretary in the form of per capita payments in addition to any amount appropriated in satisfaction of a judgment awarded the Eastern Creeks in docket numbered 275 of the Indian Claims Commission.

SEC. 4. If Federal recognition as an Indian tribe is extended to any Eastern Creek entity prior to distribution of the funds awarded in Docket Nos. 272 and 275, such tribe or tribes shall be entitled to amend the existing distribution plans for these awards by filing with the Secretary an alternative distribution plan for its proportionate share of funds in these dockets.

PURPOSE

This legislation will provide for distribution of approximately \$1.2 million in undistributed judgment funds awarded the Creek Nation of Indians by the Indian Claims Commission. The funds involved are residual funds reserved out of the original distributions in order to satisfy claimants whose eligibility to participate was administratively determined. There are different docket numbers involved and, thus, different dispositions. This legislation is necessary to avoid further per capita distribution of these funds.

Section 1 of the bill provides for the disposition of approximately \$65,000 from docket No. 276 to the Creek Nation of Oklahoma to be used for program purposes determined by the tribe. Section 2 provides for division of approximately \$1.1 million between the Creek Nation of Oklahoma and the Eastern Creeks on a formula based on the respective shares of descendants or members of the tribes determined in the original distribution of the judgment funds from docket No. 21. The funds distributed to the Creek Nation of Oklahoma are to be used for program purposes determined by the tribe. The funds distributed to the Eastern Creeks are to be retained by the Secretary of the Interior pending action on the petition of certain groups of Eastern Creek descendants for recognition as federally recognized Indian tribes. If the tribes have not been recognized by the Secretary prior to December 30, 1984, then the funds are to be distributed per capita.

BACKGROUND AND NEED

History

Prior to their removal westward, the Creek Nation occupied lands principally located in the States of Georgia and Alabama. In a series of treaties, the tribe was compelled to cede vast tracts of land to the United States and eventually to remove westward to the Indian Territory in what is now the State of Oklahoma. The treaty of 1832 which led to the westward removal did not compel all Creeks to leave their homes. In fact, the treaty expressly provided that those individual Creeks who did not wish to follow the tribe west had a right to remain.

The main body of the tribe did remove west to the Indian Territory, but a substantial number selected to remain where they were then

located. They became citizens of the United States, a legal status then regarded as contradictory to membership or citizenship in a tribe. They and their descendants are not now considered to be members of the Creek Nation of Oklahoma. These descendants are now known as the Eastern Creeks, many of whom reside in concentrations principally in Alabama, Georgia, Florida, and Oklahoma. Groups of these descendants have filed petitions for Federal recognition as Indian tribes with the Federal acknowledgement project at the Bureau of Indian Affairs. However, to date only one such group has been successful—the Poarch Band of Creek Indians in Atmore, Ala.

Claims

Under the act of August 18, 1946 (60 Stat. 1049; 25 U.S.C. 70 et seq.), establishing the Indian Claims Commission, the Creek Nation filed a number of actions against the United States for claims arising prior to the date of enactment of that act. Awards were entered in 10 different dockets, three of which required division of funds between the Creek Nation of Oklahoma and the Eastern Creek descendants. The three dockets in which division of funds were required are dockets No. 21, 272, and 275. Distribution of funds from docket No. 21 was originally authorized by the act of September 21, 1968 (Public Law 90-504). The residual funds from this docket are the subject of sections 2 and 3 of S. 1224. Funds from docket Nos. 272 and 275 have not yet been distributed.

The original distribution of the main portion of judgment funds from docket No. 21 went to 7,235 Eastern Creeks. BIA estimates there may be some 9,000 Eastern Creeks at this time. Based on these numbers, Interior Department witnesses testified that the descendant per capita distribution from docket No. 21 would be about \$20 per person. S. 1224 would limit the distribution of residual funds from docket No. 21 to those groups of Creek Indians who filed a petition with the Department of the Interior prior to enactment of this act and that have achieved federally recognized tribal status on or before December 30, 1984. It will also allow such tribes to amend current distribution plans for funds in docket Nos. 272 and 275.

There are presently two Eastern Creek entities with petitions under active consideration by the Department of the Interior: The Poarch Band of Creek Indians, Atmore, Ala., with an estimated membership of 1,462; and, a group known as the Principal Creek Indian Nation East of the Mississippi, Florida, Ala., with an estimated membership of 412. Proposed findings favorable to the petition of the Poarch Band of Creek Indians were published by the Department of the Interior in the Federal Register on January 9, 1984. Action on the petition of the Florida Band is imminent.

LEGISLATIVE HISTORY

S. 1224 was introduced by Senator Nickles, for himself, and Senators Boren and Denton, on May 5, 1983. The Select Committee on Indian Affairs held hearings on this bill on May 26, 1983. The committee held a business meeting on April 9, 1984, at which time the bill was ordered reported favorably with amendments.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on April 9, 1984, by unanimous vote of a quorum present, recommends that the Senate pass S. 1224, as amended.

AMENDMENTS

The amendments are set forth in full at the beginning of this report. Their purposes are explained in the section-by-section analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Public Law 90-506 provided for distribution of the funds awarded the Muscogee (Creek) Nation of Oklahoma by the Indian Claims Commission in docket No. 276 on a per capita basis. The basic distribution has been made but a small residual fund remains on deposit under the management of the Secretary of the Interior. This section provides that these remaining funds shall be distributed to the Creek Nation of Oklahoma for tribal program purposes.

Section 2. Public Law 90-504 provided for distribution of funds awarded the Creek Nation by the Indian Claims Commission in docket No. 21 on a per capita basis. Eligible beneficiaries included Eastern Creek descendants as well as members of the Creek Nation of Oklahoma. Initial distribution has been made but a residual fund of approximately \$1.1 million remains on deposit under the management of the Secretary of the Interior. This section provides that these funds shall be divided between the Muscogee (Creek) Nation of Oklahoma and the Eastern Creeks on the basis of their proportionate participation in the initial distribution. Funds allocated to the Creek Nation of Oklahoma shall be distributed to that tribe for tribal program purposes. Funds allocated to the Eastern Creeks shall continue to be held in trust and invested by the Secretary of the Interior.

Section 3. This section provides that if one or more of the Eastern Creek entities that have filed a petition for Federal acknowledgement are in fact recognized as an Indian tribe under Federal law on or before December 30, 1984, such tribe or tribes shall be deemed a successor in interest to the Eastern Creek share of the funds held by the Secretary under section 2. If no such entities are recognized by that date, then the funds shall be included in the distribution of funds under Indian Claims Commission docket No. 275.

Section 4. This section provides that if Federal recognition is extended to any Eastern Creek entity prior to distribution of funds awarded by the Indian Claims Commission in docket Nos. 272 and 275, such tribe or tribes shall be entitled to amend existing distribution plans for their proportionate share of the funds by filing with the Secretary of the Interior an alternative distribution plan. No further Congressional review is required.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 1224, as amended, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 12, 1984.

Hon. MARK ANDREWS,
*Chairman, Select Committee on Indian Affairs, U.S. Senate, Hart
Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1224, a bill to provide for the disposition of judgment funds awarded the Creek Nation of Indians, as amended and ordered reported by the Senate Select Committee on Indian Affairs, April 9, 1984.

The Congressional Budget Office has determined that enactment of this bill would not result in any additional costs to either the Federal Government or State and local governments in the area. The bill would provide a procedure for distributing approximately \$1.2 million in funds previously awarded by the Indian Claims Commission in the 1960's.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The committee believes that S. 1224 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Select Committee on Indian Affairs has not received a formal legislative report from the Department of the Interior on this bill. However, at hearings on S. 1224 on May 26, 1983, the Interior Department supported enactment of the bill, with minor technical amendments. The Department opposed amendment of the bill to provide for distribution to Eastern Creek entities that might potentially become Federal recognized. The Department has since published proposed findings to extend recognition to one Eastern Creek entity and is expected to act on a second petition in the immediate future.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rules XXVI of the Standing Rules of the Senate, the committee states as follows: To the extent Public Law 90-504 and Public Law 90-506 require per capita distribution of judgment funds awarded the Creek Nation by the Indian Claims Commission, these acts are superseded.

THE SECRETARY OF THE ARMY
WASHINGTON, D. C.
JANUARY 1, 1900

SIR:
I have the honor to acknowledge the receipt of your letter of the 29th inst.

and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
Yours truly,
J. M. Smith

Enclosed for you are two copies of a report on the subject of the proposed change in the regulations governing the appointment of officers to the grade of Major-General.

I am, Sir, very respectfully,
Yours truly,
J. M. Smith

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The Secretary of the Army
WASHINGTON, D. C.

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